



**US Army Corps
of Engineers**
St Paul District

APPLICANT: Aldean Luthi

Public Notice

ISSUED: 24 February 2004
EXPIRES: 25 March 2004

REFER TO: 04-01733-JKA

SECTION: 404 - Clean Water Act

1. APPLICATION FOR PERMIT TO discharge fill material in a wetland adjacent to an unnamed tributary to the Chippewa River for the purpose of installing a drain tile field to facilitate agricultural use of the property. A tile plow would be used to place 5 inch diameter tile in the top 2 to 3 feet of the top soil, and a backhoe would be used to excavate and backfill for the tile line connections and a pumping station.

2. SPECIFIC INFORMATION.

APPLICANT'S ADDRESS: 43488 240th St.
Hancock, MN 56244
(320) 392-5864

PROJECT LOCATION: The project site is located in SE 1/4 Sec. 19, T. 124N., R. 40W., Pope County, Minnesota. The approximate UTM coordinates are Zone 15, North 5045424, East 286652.

DESCRIPTION OF PROJECT: The project proposed at this time is to drain a wetland to increase agricultural production. The project involves installation of a drain tile field in approximately 11.8 acres of wetland, which the applicant has attempted to crop over the years with varying degrees of success, and installation of a discharge pump.

QUANTITY, TYPE, AND AREA OF FILL/IMPACT: Wetland impacts are associated with drainage, excavation, and filling. Small excavations at an unknown number of drain tile connections and at the pump station would be conducted. Those excavations would be backfilled with the excavated material after the tile connections are made. Approximately 11.8 acres of wetland would be drained by the drain tile field.

VEGETATION IN AFFECTED AREA: The applicant has not provided a wetland delineation that identifies vegetative species. The applicant has attempted to crop the 11.8 acres over the years with varying degrees of success, as evidenced by examination of aerial photography from 1979 through 2003. The natural vegetation is disturbed by farm practices during many years. If not impacted by farm practices, the project site would probably be a Type 2 wetland with hydrophytic vegetation.

SURROUNDING LAND USE: Surrounding land use is agricultural, except for the area immediately east of the project site, which is an existing Type 3 wetland that is adjacent to a National Wildlife Management Area in Section 20 to the east.

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DESCRIPTION OF DREDGING OR EXCAVATION: A backhoe would be used to excavate small areas where tile line connections would be made. The exact number of those connections has not been provided by the applicant. It is possible that excavation would be necessary for compensatory wetland mitigation.

MITIGATION: The applicant has not proposed compensatory wetland mitigation, however, mitigation would be required to replace the lost wetland functions as a permit condition.

3. REPLIES/COMMENTS.

Interested parties are invited to submit to this office written facts, arguments, or objections within 30 days of the date of this notice. These statements should bear upon the suitability of the location and the adequacy of the project and should, if appropriate, suggest any changes believed to be desirable. Comments received may be forwarded to the applicant.

Replies may be addressed to Regulatory Branch, St. Paul District, Corps of Engineers, 190 Fifth Street East, St. Paul, MN 55101-1638.

Or, IF YOU HAVE QUESTIONS ABOUT THE PROJECT, call Jon K. Ahlness at the St. Paul office of the Corps, telephone number (651) 290-5381.

4. FEDERALLY-LISTED THREATENED OR ENDANGERED WILDLIFE OR PLANTS OR THEIR CRITICAL HABITAT.

None were identified by the applicant or are known to exist in the permit area. However, Pope County is within the known or historic range of the following Federally-listed threatened species:

<u>Species</u>	<u>Habitat</u>
Bald eagle	Mature forest near water

This application is being coordinated with the U.S. Fish and Wildlife Service. Any comments it may have concerning Federally-listed threatened or endangered wildlife or plants or their critical habitat will be considered in our final assessment of the described work.

5. JURISDICTION.

This project comes under the regulatory jurisdiction of the Corps of Engineers because the unnamed wetland being impacted by the project is adjacent to an unnamed tributary to the Chippewa River, which is tributary to Minnesota River, a navigable water of the United States.

REGULATORY AUTHORITY: This application will be reviewed according to the provisions of Section 404 of the Clean Water Act. Therefore, our public interest review will consider the guidelines set forth under Section 404(b) of the Clean Water Act (40 Code of Federal Regulations 230).

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THE APPLICANT HAS STATED THAT THE FOLLOWING STATE, COUNTY, AND/OR LOCAL PERMITS HAVE BEEN APPLIED FOR/ISSUED: USDA Natural Resource Conservation Service (NRCS)

6. STATE SECTION 401 WATER QUALITY CERTIFICATION.

Valid Section 404 permits cannot be issued for any activity unless state water quality certification for the activity is granted or waived pursuant to Section 401 of the Clean Water Act. The state Section 401 authority in Minnesota is the Minnesota Pollution Control Agency (MPCA). The St. Paul District has provided this public notice and a copy of the applicant's Section 404 permit application form to the MPCA. If MPCA needs any additional information in order for the Section 401 application to be considered complete by MPCA, the MPCA has indicated that it will request such information from the applicant. It is the permit applicant's responsibility to ensure that the MPCA has received a valid, complete application for state Section 401 certification and to obtain a final Section 401 action from the MPCA.

The MPCA has indicated that this public notice serves as its public notice of the application for Section 401 water quality certification under Minnesota Rules Part 7001. The MPCA has also indicated that the Section 401 process shall begin to commence upon the issuance date of this public notice unless the MPCA notifies both the St. Paul District and the permit applicant to the contrary, in writing, before the expiration date of this public notice.

The MPCA has eliminated the staffing resources for the Section 401 certification program due to budgetary limitations. Due to staff reductions, MPCA is intending to waive many section 401 certification applications with limited exceptions but the MPCA reserves the right and authority to proceed differently if extreme or unique circumstances merit a different approach. In many cases, the waiver of 401 certification means that the MPCA has not reviewed federally permitted projects in detail for conformance with state water quality standards nor has the MPCA made a determination of the proposal's compliance with state water quality standards. This waiver action, however, will not exempt the applicant from the responsibility of complying with all applicable water quality standards and requirements as contained in Minn. R. ch. 7050 and all other applicable state rules regarding water quality. The applicant will need to make a self-determination of water quality compliance of their proposal. In the event of water quality violations caused by the applicant's project, enforcement action may be taken by the MPCA.

Any comments relative to MPCA's intention to waive Section 401 Certification for the activity proposed in this public notice may be sent to:

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Minnesota Pollution Control Agency
Regional Environmental Management Division
Attention 401 Certification
520 Lafayette Road North
St. Paul, Minnesota 55155-4194

7. HISTORICAL/ARCHAEOLOGICAL.

This public notice is being sent to the National Park Service, the State Archaeologist, and the State Historic Preservation Officer to determine if there are known cultural resources which may be affected by the described work. Any unknown archaeological, scientific, or historical data could be lost or destroyed by the work described in the permit application. However, the latest version of the National Register of Historic Places has been consulted and no listed properties (known to be eligible for inclusion, or included in the Register) are located in the project area.

8. PUBLIC HEARING REQUESTS.

Any person may request, in writing, within the comment period specified in this notice, that a public hearing be held to consider this application. Requests for public hearings shall state, in detail, the reasons for holding a public hearing. A request may be denied if substantive reasons for holding a hearing are not provided or if there is otherwise no valid interest to be served.

9. PUBLIC INTEREST REVIEW.

The decision whether to issue a permit will be based on an evaluation of the probable impact, including cumulative impacts, of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefit which reasonably may be expected to accrue from the proposal must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the proposal will be considered, including the cumulative effects. Among those are conservation, economics, aesthetics, general environmental concerns, wetlands, cultural values, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production and, in general, the needs and welfare of the people. Environmental and other documents will be available for review in the St. Paul District Office.

The Corps of Engineers is soliciting comments from the public; Federal, State, and local agencies and officials; Indian tribes; and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps of Engineers to determine whether to issue, modify, condition, or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an

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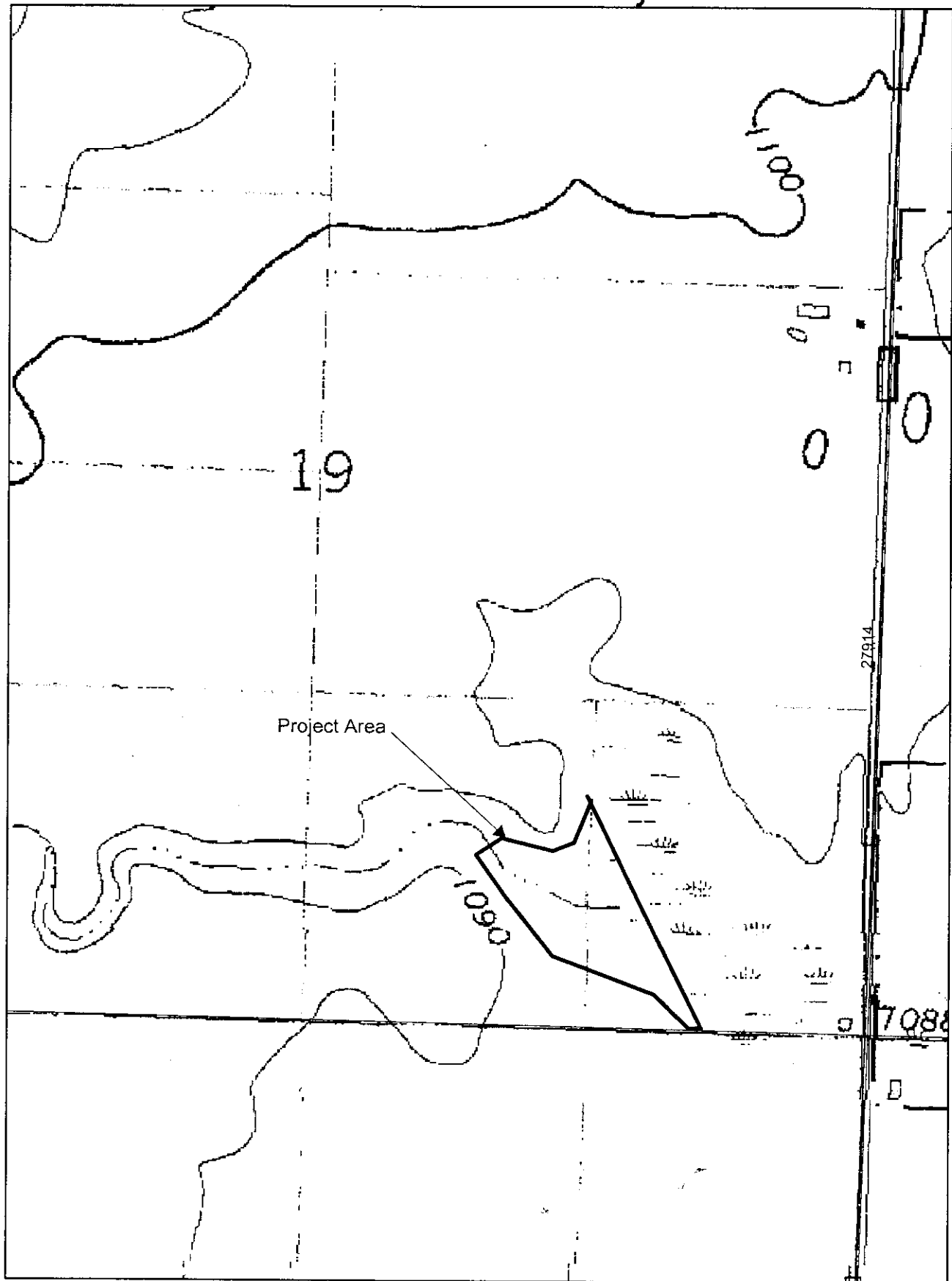
Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.


for Robert J. Whiting
Chief, Regulatory Branch

Enclosure

NOTICE TO EDITORS: This public notice is provided as background information and is not a request or contract for publication.

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Luthi Drain Tile Project



Sec. 19, T. 124N., R. 40W., Pope County, MN

0 625 1,250 2,500 Feet

